

AMENDED IN SENATE APRIL 18, 2017
AMENDED IN SENATE MARCH 27, 2017

SENATE BILL

No. 607

Introduced by Senator Skinner
(Coauthor: Assembly Member Reyes)

February 17, 2017

An act to amend Section 48900 of the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as amended, Skinner. Pupil discipline: suspensions and expulsions: willful defiance.

Existing law prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed a specified act, including, among other acts, disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

Existing law prohibits the suspension of a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, and recommending the expulsion of a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, for disrupting school activities or otherwise willfully defying the valid authority of those school personnel engaged in the performance of their duties. Existing law makes these prohibitions inoperative on July 1, 2018.

~~This bill, with respect to prohibiting the suspension of a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, would instead prohibit~~

~~the suspension of a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, for disrupting school activities or otherwise willfully defying the valid authority of those school personnel engaged in the performance of their duties. The bill would also delete the provision making these prohibitions inoperative on July 1, 2018. bill would instead make those provisions indefinitely applicable to pupils enrolled in kindergarten or any of grades 1 to 5, inclusive, and, with respect to pupils enrolled in grades 6 to 12, inclusive, would make those provisions applicable until July 1, 2028.~~ The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature to provide
2 teachers and school administrators with the means to foster safe
3 and supportive learning environments for all children in California.
4 (b) It is further the intent of the Legislature to ensure that pupils
5 who transfer between multiple classrooms, taught by multiple
6 teachers, be allowed to attend all remaining classes from which
7 they have not been removed for disciplinary reasons.
8 SEC. 2. Section 48900 of the Education Code is amended to
9 read:
10 48900. A pupil shall not be suspended from school or
11 recommended for expulsion, unless the superintendent of the school
12 district or the principal of the school in which the pupil is enrolled
13 determines that the pupil has committed an act as defined pursuant
14 to any of subdivisions (a) to (r), inclusive:
15 (a) (1) Caused, attempted to cause, or threatened to cause
16 physical injury to another person.
17 (2) Willfully used force or violence upon the person of another,
18 except in self-defense.
19 (b) Possessed, sold, or otherwise furnished a firearm, knife,
20 explosive, or other dangerous object, unless, in the case of
21 possession of an object of this type, the pupil had obtained written
22 permission to possess the item from a certificated school employee,
23 which is concurred in by the principal or the designee of the
24 principal.
25 (c) Unlawfully possessed, used, sold, or otherwise furnished,
26 or been under the influence of, a controlled substance listed in

Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 12, 5, inclusive, shall not be suspended for any of the acts ~~enumerated in this subdivision; specified in paragraph (1) and this subdivision~~ those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, 5, inclusive, to be recommended for expulsion.

(3) *Except as provided in Section 48910, a pupil enrolled in any of grades 6 to 12, inclusive, shall not be suspended for any of the acts specified in paragraph (1) and those acts shall not constitute grounds for a pupil enrolled in any of grades 6 to 12,*

1 *inclusive, to be recommended for expulsion. This paragraph is*
2 *inoperative on July 1, 2028.*

3 (l) Knowingly received stolen school property or private
4 property.

5 (m) Possessed an imitation firearm. As used in this section,
6 “imitation firearm” means a replica of a firearm that is so
7 substantially similar in physical properties to an existing firearm
8 as to lead a reasonable person to conclude that the replica is a
9 firearm.

10 (n) Committed or attempted to commit a sexual assault as
11 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
12 Code or committed a sexual battery as defined in Section 243.4
13 of the Penal Code.

14 (o) Harassed, threatened, or intimidated a pupil who is a
15 complaining witness or a witness in a school disciplinary
16 proceeding for purposes of either preventing that pupil from being
17 a witness or retaliating against that pupil for being a witness, or
18 both.

19 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
20 sold the prescription drug Soma.

21 (q) Engaged in, or attempted to engage in, hazing. For purposes
22 of this subdivision, “hazing” means a method of initiation or
23 preinitiation into a pupil organization or body, whether or not the
24 organization or body is officially recognized by an educational
25 institution, that is likely to cause serious bodily injury or personal
26 degradation or disgrace resulting in physical or mental harm to a
27 former, current, or prospective pupil. For purposes of this
28 subdivision, “hazing” does not include athletic events or
29 school-sanctioned events.

30 (r) Engaged in an act of bullying. For purposes of this
31 subdivision, the following terms have the following meanings:

32 (1) “Bullying” means any severe or pervasive physical or verbal
33 act or conduct, including communications made in writing or by
34 means of an electronic act, and including one or more acts
35 committed by a pupil or group of pupils as defined in Section
36 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
37 that has or can be reasonably predicted to have the effect of one
38 or more of the following:

39 (A) Placing a reasonable pupil or pupils in fear of harm to that
40 pupil’s or those pupils’ person or property.

1 (B) Causing a reasonable pupil to experience a substantially
2 detrimental effect on his or her physical or mental health.

3 (C) Causing a reasonable pupil to experience substantial
4 interference with his or her academic performance.

5 (D) Causing a reasonable pupil to experience substantial
6 interference with his or her ability to participate in or benefit from
7 the services, activities, or privileges provided by a school.

8 (2) (A) “Electronic act” means the creation or transmission
9 originated on or off the schoolsite, by means of an electronic
10 device, including, but not limited to, a telephone, wireless
11 telephone, or other wireless communication device, computer, or
12 pager, of a communication, including, but not limited to, any of
13 the following:

14 (i) A message, text, sound, video, or image.

15 (ii) A post on a social network Internet Web site, including, but
16 not limited to:

17 (I) Posting to or creating a burn page. “Burn page” means an
18 Internet Web site created for the purpose of having one or more
19 of the effects listed in paragraph (1).

20 (II) Creating a credible impersonation of another actual pupil
21 for the purpose of having one or more of the effects listed in
22 paragraph (1). “Credible impersonation” means to knowingly and
23 without consent impersonate a pupil for the purpose of bullying
24 the pupil and such that another pupil would reasonably believe, or
25 has reasonably believed, that the pupil was or is the pupil who was
26 impersonated.

27 (III) Creating a false profile for the purpose of having one or
28 more of the effects listed in paragraph (1). “False profile” means
29 a profile of a fictitious pupil or a profile using the likeness or
30 attributes of an actual pupil other than the pupil who created the
31 false profile.

32 (iii) An act of cyber sexual bullying.

33 (I) For purposes of this clause, “cyber sexual bullying” means
34 the dissemination of, or the solicitation or incitement to
35 disseminate, a photograph or other visual recording by a pupil to
36 another pupil or to school personnel by means of an electronic act
37 that has or can be reasonably predicted to have one or more of the
38 effects described in subparagraphs (A) to (D), inclusive, of
39 paragraph (1). A photograph or other visual recording, as described
40 above, shall include the depiction of a nude, semi-nude, or sexually

1 explicit photograph or other visual recording of a minor where the
2 minor is identifiable from the photograph, visual recording, or
3 other electronic act.

4 (II) For purposes of this clause, “cyber sexual bullying” does
5 not include a depiction, portrayal, or image that has any serious
6 literary, artistic, educational, political, or scientific value or that
7 involves athletic events or school-sanctioned activities.

8 (B) Notwithstanding paragraph (1) and subparagraph (A), an
9 electronic act shall not constitute pervasive conduct solely on the
10 basis that it has been transmitted on the Internet or is currently
11 posted on the Internet.

12 (3) “Reasonable pupil” means a pupil, including, but not limited
13 to, an exceptional needs pupil, who exercises average care, skill,
14 and judgment in conduct for a person of his or her age, or for a
15 person of his or her age with his or her exceptional needs.

16 (s) A pupil shall not be suspended or expelled for any of the
17 acts enumerated in this section unless the act is related to a school
18 activity or school attendance occurring within a school under the
19 jurisdiction of the superintendent of the school district or principal
20 or occurring within any other school district. A pupil may be
21 suspended or expelled for acts that are enumerated in this section
22 and related to a school activity or school attendance that occur at
23 any time, including, but not limited to, any of the following:

24 (1) While on school grounds.

25 (2) While going to or coming from school.

26 (3) During the lunch period whether on or off the campus.

27 (4) During, or while going to or coming from, a
28 school-sponsored activity.

29 (t) A pupil who aids or abets, as defined in Section 31 of the
30 Penal Code, the infliction or attempted infliction of physical injury
31 to another person may be subject to suspension, but not expulsion,
32 pursuant to this section, except that a pupil who has been adjudged
33 by a juvenile court to have committed, as an aider and abettor, a
34 crime of physical violence in which the victim suffered great bodily
35 injury or serious bodily injury shall be subject to discipline pursuant
36 to subdivision (a).

37 (u) As used in this section, “school property” includes, but is
38 not limited to, electronic files and databases.

39 (v) For a pupil subject to discipline under this section, a
40 superintendent of the school district or principal is encouraged to

1 provide alternatives to suspension or expulsion, using a
2 research-based framework with strategies that improve behavioral
3 and academic outcomes, that are age appropriate and designed to
4 address and correct the pupil's specific misbehavior as specified
5 in Section 48900.5.

6 (w) (1) It is the intent of the Legislature that alternatives to
7 suspension or expulsion be imposed against a pupil who is truant,
8 tardy, or otherwise absent from school activities.

9 (2) It is further the intent of the Legislature that the department's
10 Multi-Tiered System of Supports, which includes restorative justice
11 practices, trauma-informed practices, social and emotional learning,
12 and schoolwide positive behavior interventions and support, may
13 be used to help pupils gain critical social and emotional skills,
14 receive support to help transform trauma-related responses,
15 understand the impact of their actions, and develop meaningful
16 methods for repairing harm to the school community.